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EM-One Power Station LLC

STATE OF CALIFORNIA

**Energy Resources Conservation
And Development Commission**

In the Matter of:)	Docket No. 00-AFC-3
)	
Application for Certification)	NOTICE OF APPLICANT'S
For the EM-One Power Station's)	OBJECTIONS TO AND
NUEVA AZALEA POWER PLANT PROJECT)	INABILITY TO COMPLY WITH
(Sunlaw Energy Corp.))	CEC STAFF'S SECOND SET OF
)	DATA REQUESTS (#87-135)

Applicant EM-One Power Station LLC ("Applicant") hereby timely submits its Notice of Objections to and Inability to Comply with CEC Staff's Second Set of Data Requests (#87-135) pursuant to 20 Cal. Code Reg. § 1716(f), as modified by the letter from James W. Reede, Jr., Energy Facility Siting Project Manager, to Tim Smith, Vice President of Power Development, dated October 24, 2000 ("Staff Letter"). That letter, which accompanied the Staff's Second Set of Data Requests, provides that written notice of Applicant's inability to provide or objection to providing the requested information must be sent within 15 days of receipt of the requests. *See* Staff Letter at ¶ 3. Applicant received the Staff's Second Set of Data Requests (#87-135) on October 25, 2000. Accordingly, Applicant's objections are timely provided on November 9, 2000.

GENERAL OBJECTION

The following general objection applies to all of the CEC Staff's Requests and is in addition to any objection to or inability to comply with a specific Request set forth below:

Applicant objects to each of the CEC Staff's Requests to the extent that those Requests seek data that is not reasonably available to Applicant.

SPECIFIC OBJECTIONS

Technical Area: Air Quality

87. *Please provide information regarding the new and/or modified facilities mentioned by the Applicant on October 18, 2000. Please include all the information that would be needed to model these facilities including the expected net change in traffic due to these facilities. The information shall include hourly and daily emissions for NO_x, NO, CO, VOC, PM10, and SO_x. Please also include as much as possible data regarding the location where these emissions would take place, and, if there are stacks, include the stacks parameters needed for conventional air dispersion modeling analysis. In the case of mobile sources, please also include the data in a format needed for the CALINE model.*

Applicant objects to this Request on the grounds that most of the requested data is not reasonably available to the Applicant. In addition, Applicant is unable to comply with much of the Request since Applicant lacks any means of obtaining most of the data requested. Notwithstanding the above-stated objection and inability to comply, Applicant will provide data reasonably available to it that is responsive to this Request.

88. *Please contact the relevant cities for this case and request information on planned projects in a six mile radius from the proposed site to find out if enough information is available to allow for their inclusion in the cumulative impact analysis for this project. Please note that the Siting Regulations direct CEC Staff to consider projects under construction or with permits pending before a local and/or state agency. For those adequately defined projects, please provide the standard air quality information needed for air dispersion modeling. Please provide copies of the contact letters and responses.*

Applicant objects to this Request on the grounds that some of the requested data is not relevant to the application proceeding and is not reasonably necessary for the Commission to make a decision on the Application. The use of an arbitrary six-mile radius of the proposed project site is not appropriate for use in impact analysis. The appropriate geographic area of impact analysis should be determined based on the particular circumstances of the impact under review. Notwithstanding the above-stated objection and inability to comply, Applicant will provide data reasonably available to it that is responsive to this Request.

89. *Please suggest locations for an air quality monitoring station that would collect CO, NO₂, and PM₁₀ concentrations representative for the conditions in the cities of South Gate and Downey. Please present a schedule for the deployment of such monitoring station. Please follow as much as practical the guidelines prepared by the U.S. EPA for the selection and deployment of air quality monitoring stations. A collocated standard meteorological station would be useful but not necessary.*

Applicant objects to this Request on the grounds that the requested data is not relevant to the application proceeding and it is not reasonably necessary for the Commission to make a decision on the Application.

Based on the Staff's comments at the Data Request Workshop for these Requests, Applicant understands that the purpose of this Request is to allow Staff to evaluate Applicant's assertion that the emissions from the Nueva Azalea powerplant will be cleaner than the ambient air taken into the combustion turbine intake at the plant site. The requested data is not relevant for that purpose since ambient air data at locations other than at the powerplant site are not applicable to ambient conditions at the plant site. The Nueva Azalea powerplant will be sited immediately adjacent to a major freeway. It is a well-known fact that air quality immediately adjacent to a freeway is dirtier than air away from the freeway. Indeed, Staff acknowledges this in the Background discussion to this Request.

Staff also may believe that the ambient air monitoring data collected in the vicinity of the powerplant site was affected by the current truck depot usage of the site. Staff made and then cancelled an appointment to review the location of Applicant's ambient air monitoring. Had Staff acquainted itself with the location of the previous on-site monitoring, it would have easily seen that the ambient air quality at the monitoring location is dominated by freeway impacts and not significantly affected by JB Hunt emissions.

In addition, the entire analysis Staff proposes to undertake on this issue is not relevant to the application proceeding and it is not reasonably necessary for the Commission to make a decision on the Application.

92. *Please provide a table with the air dispersion modeling results for the following receptors located no more than 3 miles from the facility: 1) hospitals, 2) schools, to include Los Padrinos Juvenile Justice Center, 3) convalescent centers, and 4) other similar facilities.*

Applicant objects to this Request based on its inclusion of an arbitrary 3-mile radius. The appropriate geographic area of impact should be determined based on the particular circumstances of the impact under review. Applicant also objects to this Request on the grounds that identification of specific sensitive receptors is not relevant to the application proceeding or reasonably necessary for the Commission to make a decision on the application for the following reason: For purposes of public health risk assessment, Applicant is willing to stipulate to an assumption that there is a sensitive receptor located at the maximum point of impact for each air pollutant from the project. In that way, the analysis can assure that no person's health, whether or not sensitive, will be adversely affected by the project.

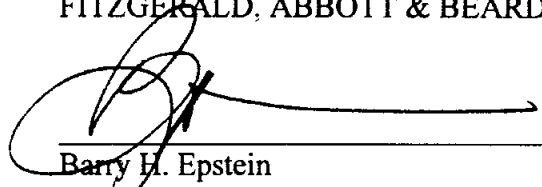
Technical Area: Socioeconomics

105. Please provide an analysis of the socioeconomic impacts, beneficial or adverse, of the Nueva project on the communities of Downey, Huntington Park, Bell Garden, Cudahy and Lynwood.

Applicant objects to this request on the grounds that the requested data is not relevant to the application proceeding or reasonably necessary for the Commission to make a decision on the application. Notwithstanding this objection, Applicant will provide data reasonably available to it that is responsive to this Request.

Dated: November 9, 2000

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